REMARKS/ARGUMENTS

Applicants have received and carefully reviewed the Office Action of the Examiner mailed March 5, 2009. Currently, claims 1, 2, 4-12, 14-16, 18-26, 28, and 29 are pending and have been rejected. Claims 1, 15, and 29 have been amended. Support can be found within the drawings and specification, for example Figures 2-3 and pages 5-7. Favorable consideration of the above amendments and the following remarks is respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1-2, 8-12, 14-16, 19, 23-26, and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Boyle et al. (U.S. Publication No. 2003/0004537) and Carlson et al. (U.S. Patent No. 5,814,058). After careful review, Applicant must respectfully traverse this rejection.

"All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). (MPEP 2143.03).

Initially, Boyle et al. do not appear to disclose that the plurality of filaments is configured to radially expand when axially compressed, as stated in claim 1, and the Examiner appears to rely upon Carlson et al. to provide a plurality of filaments "that are capable of radially expanding if axially compressed (for example, see column 8, lines 37-38)." However, it appears that the Examiner may have mischaracterized Carlson et al., who state in the above-cited passage "that radial expansion causes axial shortening of the braid". The braid of Carlson et al. does not appear to radially expand as a result of axial compression, as asserted by the Examiner, but instead it axially shortens as a result of radial expansion – i.e. the cause-effect relationship appears reversed. Nowhere do Carlson et al. appear to disclose or suggest that axial compression causes radial expansion. Applicants characterize the Carlson et al. device as a "pull"-type configuration (when the braid is expanded radially, the distal end is "pulled" proximally to shorten it axially), while the claimed device may be considered a "push"-type configuration (when the distal end is "pushed" in axial compression, the braid expands radially).

In fact, a "push" or compression-expansion configuration such as that claimed would appear to be undesirable to Carlson et al. as suggested by column 9, lines 9-22, where Carlson et al. discuss the device being self-introduced using a puncturing element affixed at the distal end of the sleeve to penetrate the tissue. The puncturing operation would appear to naturally apply compressive force to the distal end of the sleeve. A sleeve configured to expand radially when subjected to compressive force (for example, during this procedure) would appear to undesirably require a larger opening and additional force to facilitate penetration, thus making the procedure more invasive.

Therefore, Boyle et al. and Carlson et al. do not appear to disclose or suggest a plurality of filaments is configured to radially expand when axially compressed, as recited by independent claim 1 and as required to establish a *prima facie* rejection.

Secondly, Boyle et al. do not appear to disclose a proximal portion of a braided member extending proximally of a distal end of the elongated shaft, as stated in claims 1 and 15. Boyle et al. appear to disclose a distal tip portion 114 made of a different material than sheath 112, adhesively bonded to the distal end of sheath 112. However, ring member 116 appears to be completely embedded within, or disposed on the inner or outer surface of, distal tip portion 114. There does not appear to be any portion of ring member 116 or distal tip portion 114 that extends proximally of the distal end of sheath 112, as recited by independent claims 1 and 15. Carlson et al. do not appear to remedy this deficiency. Thus the combination does not appear to disclose or suggest this element of claims 1 and 15, as is required to establish a *prima facie* case of obviousness.

As discussed above, Boyle et al. and Carlson et al. do not appear to render obvious independent claims 1 and 15 for at least the reason that Boyle et al. and Carlson et al. do not disclose each and every element of the claims as required to establish a *prima facie* rejection. Applicants respectfully assert that claims 2, 8-12, 14, 16, 19, 23-26, and 28, which depend from nonobvious claims 1 and 15 and add additional elements thereto, are also nonobvious and therefore patentable over Boyle et al. and Carlson et al. Applicants respectfully request withdrawal of the rejection.

Claims 4-7, 18, 20-22, and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Boyle et al. (U.S. Publication No. 2003/0004537) and Carlson et al. (U.S. Patent No. 5,814,058) as applied to claims 1 and 15, and further in view of Dubrul et al. (U.S. Patent No. 6,221,006). After careful review, Applicant must respectfully traverse this rejection.

As noted above, independent claims 1 and 15 are believed to be nonobvious. Therefore, claims 4-7, 18, and 20-22, which depend therefrom and add additional elements thereto, are also believed to be nonobvious under MPEP 2143.03. Applicants respectfully request withdrawal of the rejection.

With respect to independent claim 29, it has been shown in the discussion of independent claims 1 and 15 above, upon which reasoning the Examiner relies in rejecting claim 29, that Boyle et al. and Carlson et al. do not appear to render obvious the claimed medical device. Dubrul et al., which appears to have been advanced for the sole purpose of providing a woven braid including a "plurality of filaments arranged in two sets of parallel helices wound in opposite directions about a common longitudinal axis and defining a radially expandable inner lumen", do not appear to remedy the structural deficiencies of Boyle et al. and Carlson et al. Accordingly, Applicants believe that claim 29 is indeed patentable over Boyle et al. and Carlson et al. in view of Dubrul et al. for reasons similar to those discussed above in relation to claims 1 and 15 and respectfully request that the rejection be withdrawn.

Conclusion

In view of the foregoing, all pending claims are believed to be in condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,
AMR SALAHIEH et al.
By their Attorney,

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Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Glenn.Seager@cstlaw.com
Tel: (612) 677-9050
Fax: (612) 359-9349